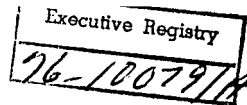


CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505



19 OCT 1976

A

Honorable James T. Lynn, Director
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

This is in response to the letter of 6 August 1976, from your General Counsel, requesting my comments on the proposed Executive Order entitled "Suitability Requirements for Government Employment." A careful review of the draft Order has led me to conclude that its standards and procedures do not afford adequate protection to the Government's sensitive foreign intelligence information or activities.

In light of my statutory and executive responsibilities to protect intelligence sources and methods and analytical procedures, it is of deep concern to me that only those persons of the highest degree of loyalty and trustworthiness be granted access to foreign intelligence data requiring protection. The minimum personnel security standards and procedures governing access to Sensitive Compartmented Information are contained in Director of Central Intelligence Directive No. 1/14, which was issued pursuant to Executive Order 11905, Section 102 of the National Security Act of 1947, and National Security Council Directives. DCID No. 1/14 applies to all Government personnel and private individuals requiring access to such information.

The proposed Order strikes at the heart of the process of protecting sensitive Government information and by its broad terms clearly encompasses standards and procedures of crucial importance to the Intelligence Community. The investigative procedures and the standards whereby, under this draft Executive Order, an individual would be granted clearances for access to sensitive information including intelligence sources and methods, fall far short of those which I deem necessary in light of my statutory and executive responsibilities. Furthermore, I am concerned that the provisions of the proposed Order related to purported rights of employees or applicants could be construed to conflict with my termination authority under Section 102(c)



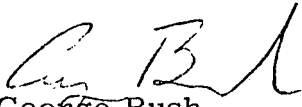
of the National Security Act of 1947, as amended. This authority vested in the Director of Central Intelligence reflects the necessity that he retain flexibility and discretion in protecting sensitive intelligence information and those positions involving access thereto.

In view of the basic differences between the proposed Order and the responsibilities of the Director of Central Intelligence, therefore, I have concluded that the limited exemption provided the Central Intelligence Agency, the National Security Agency, and the Federal Bureau of Investigation, in Section 3(b) of the draft Order, must be expanded in order to remove from the terms thereof the Director of Central Intelligence and the Intelligence Community. Section 4 of the draft Order also must be amended to make clear that neither the Director of Central Intelligence nor any of the organizations of the Intelligence Community, are required to accept or certify security clearances granted by other Government agencies or departments pursuant to this Order. I am enclosing with this letter amendatory language to accomplish these purposes.

I fully recognize that amending this Order as noted above would result in two standards for granting security clearances in the Government. This burden, however, involving as it would some degree of duplication and added expense, in my view is absolutely necessary if the terms of this draft Order are implemented in their present form.

My decision in this matter was made only after concerted effort to accommodate the requirements of the Central Intelligence Agency and the Intelligence Community to the terms of this draft Order. The many and substantial differences, however, dictate that this would not be possible absent a redrafting of the Order to reflect fully the interests of all agencies and departments affected; representatives of the CIA and the Intelligence Community Staff were not consulted in the earlier drafting deliberations. It is my view that the longer term interests of the Government would best be served if every effort is made to develop suitability and security requirements that are uniform and acceptable to all agencies and departments, including the Intelligence Community. I stand ready to assist in such an effort.

Sincerely,


George Bush
Director

Enclosure

Distribution:

Orig - Add'l	1 - C/Review Staff/OP	1 - OLC Chrono
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ENCLOSURE

4

PROPOSED AMENDMENTS TO THE DRAFT EXECUTIVE ORDER,
"SUITABILITY REQUIREMENTS FOR GOVERNMENT SERVICE,"
SUBMITTED BY THE DIRECTOR OF CENTRAL INTELLIGENCE

1. Amend Section 3(b) by substituting the following for the last sentence thereof: "This Order shall not apply to the Director of Central Intelligence or the organizations constituting the Intelligence Community as defined by Executive Order 11905."
2. Amend Section 4 by adding the following sentence at the end thereof: "Nothing in this Order shall require that the Director of Central Intelligence or any of the organizations exempt from this Order by Section 3(b) accept or certify security clearances granted pursuant to this Order."

THE DIRECTOR OF CENTRAL INTELLIGENCE

WASHINGTON, D. C. 20505

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23 DEC 1976

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Honorable James T. Lynn, Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

In response to your General Counsel's letter to me of 2 November 1976, I am enclosing herewith additional material explaining in detail my opposition to provisions of the proposed Executive order entitled, "Suitability Requirements for Government Employment," which was forwarded to me for comment.

As I indicated in my letter to you of 19 October 1976, I am concerned that neither the Central Intelligence Agency nor the Intelligence Community Staff was consulted in the process of drafting this proposed Executive order. The problems inherent in the document are of such magnitude that, in my view, the Intelligence Community should be excluded from its provisions. I appreciate the understanding expressed in Mr. Nichols' letter and in light of his request for further assistance in redrafting this order, officers on my staff have carefully reviewed the draft order and have identified and explained those provisions which pose problems for the Government's National Foreign Intelligence Program, in terms of suitability requirements for Government employment and, concomitantly, the granting of access to foreign intelligence related information which it is my statutory responsibility to protect.

In light of the apparently substantial opposition to provisions of this draft order by other Executive agencies and departments, and considering the problems identified by my staff, I must stress that, upon review by your office of the material enclosed herewith, we be kept informed of future developments to ensure that the needs and responsibilities of the Intelligence Community are adequately reflected.

As I indicated in my 19 October letter, it is my view that our efforts should be directed toward developing a uniform program for suitability and security requirements related to Government employment--a single document that will form the basis for such programs throughout the Executive Branch. In order to accomplish this, however, the Executive order must establish clearly that the Director of Central

Intelligence has the statutory responsibility and authority for the protection of intelligence sources and methods; it therefore must be unambiguous in recognizing that the standards for granting access to Sensitive Compartmented Information and to intelligence sources and methods are solely the responsibility of the Director of Central Intelligence. To meet both of these objectives, the enclosure proposes the addition of certain language to Section 4 of the proposed order. Here and elsewhere, the draft Executive order must recognize that the field of intelligence is unique and demands the use of certain procedures not commonly utilized by other Government agencies and departments.

I trust this letter and the enclosed material will be of assistance to your staff as they begin the process of redrafting this proposed Executive order. I would only reiterate my concern that the views and requirements of the Intelligence Community be reflected fully in this Executive order. Absent this, my view remains that the Intelligence Community must be exempted from the terms of the Executive order, per the amendment I proposed in the enclosure to my letter to you of 19 October 1976. It is my continued hope, however, that our coordinated efforts to resolve the problems posed by the draft order will result in the development of a program which in its scope and effect will be most beneficial to the Government as a whole.

Sincerely,

/s/ George Bush

George Bush

Enclosures

Distribution:

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OLC:RLB:hms (typed 10 December 1976)